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Attorneys for Plaintiff
SIDENSE CORP.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SIDENSE CORP., a Canadian Corporation,

Plaintiff,

v.

KILOPASS TECHNOLOGY INC., a California
Corporation,

Defendant.

Case No. 3:14-cv-02238-SI

**FURTHER JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
[PROPOSED] ORDER**

Ctrm: 10, 19th Floor
Judge: Honorable Susan Illston

Date: January 28, 2016

1 The parties by and through their attorneys, jointly submit this Further Case Management
2 Conference Statement pursuant to the Court's Order dated December 3, 2015 (Dkt. No. 49).

3 **I. PROCEEDINGS SINCE THE INITIAL CASE MANAGEMENT CONFERENCE**

4 On July 19, 2015, the Court held an Initial Case Management Conference, at which the parties
5 informed the Court that the attorneys' fees award in the related underlying patent litigation was on appeal
6 to the Federal Circuit. That appeal has now been fully briefed but has not yet been set for oral argument.

7 Kilopass also informed the Court in the parties' initial Joint Case Management Conference
8 Statement that it expected to file a motion to dismiss in this case. The parties further stated no discovery
9 had yet taken in place in this case, including that that initial disclosures had not yet been served, and that
10 the parties anticipated that when the pleadings were settled, the parties would meet and confer regarding
11 a stipulated discovery schedule to the extent required.

12 The Court subsequently entered a Pretrial Preparation Order (Dkt. No. 27), setting a further case
13 management conference for October 9, 2015, with a Pretrial Conference date of November 15, 2016 and
14 a Jury Trial date of November 28, 2016. Non-expert discovery was set to close on June 17, 2016, and
15 expert discovery to close on August 19, 2016.

16 Kilopass filed a motion to dismiss the complaint (Dkt. No. 29) on July 20, 2016. On August 11,
17 2015 (Dkt. No. 36), the Court granted an extension of time until August 24, 2015, for Sidense to amend
18 its complaint. The First Amended Complaint was filed on August 24, 2015 (Dkt. No. 37), mooted
19 Kilopass's motion to dismiss the original complaint. Kilopass moved to withdraw its motion to dismiss
20 (Dkt. No. 40) and the parties jointly moved (Dkt. No. 41) for an order setting a briefing schedule and a
21 December 4, 2015, hearing for Kilopass's anticipated Motion to Dismiss the First Amended Complaint.
22 The parties also sought a continuance of the October 9, 2015, Further Case Management Conference
23 until after a decision on the motion to dismiss, including to permit the parties to consider, prior to filing a
24 Further Joint Case Management Conference Statement, whether the motion to dismiss decision had
25 settled the pleadings and, if so, whether the Parties would engage in further settlement discussions. The
26 Court entered the parties' stipulated schedule on September 25, 2015 (Dkt. No. 42).

27 On December 2, 2015, the Court issued an order (Dkt. No. 48) denying Kilopass's Motion to
28 Dismiss the First Amended Complaint and vacating the hearing scheduled for December 4, 2015. The

following day, the Court reset the Further Case Management Conference for January 28, 2016. Kilopass filed its Answer to the First Amended Complaint on December 16, 2015 (Dkt. No. 50).

II. THE PARTIES' DISCUSSION REGARDING ADR AND FURTHER CASE PROCEEDINGS

Counsel for the parties met and conferred on January 8, 2016, regarding Alternative Dispute Resolution. Both parties have expressed a desire for continued settlement discussions prior to the parties incurring significant litigation costs and burdening the Court with further proceedings and discovery in this case. The parties have agreed to a mediation before a private mediator and a means of selecting a mediator. The mediation will be scheduled for a conclusion not later than April 14, 2016, although the parties are not precluded from extending that date if they agree that circumstances warrant such an extension. In order to accommodate preparation for and attendance at the mediation, the parties have agreed that there will be no party or other depositions in the United States between the date of this order and April 14, 2016, but in that time, the parties may (a) take depositions in foreign countries and (b) conduct written discovery.

In addition, in view of the matters set forth herein, the parties request that the Court continue the Further Case Management Conference for three months, until April 28, 2016, or an alternative date convenient for the Court.

Further, recognizing that discovery has not yet commenced and that the extended period of time necessary to finalize the pleadings and resolve the motion to dismiss have rendered the current schedule impractical, the parties request a continuance of all dates in the Pretrial Preparation Order (Dkt. No. 27) as follows:

<u>Event</u>	<u>Current Date</u>	<u>Proposed New Date</u>
Non-Expert Discovery Cut-off	June 17, 2016	September 23, 2016
Designation of Experts	7/1/16; Rebuttal, 8/1/16. Parties shall comply with Rule 26(a)(2)	10/7/16; Rebuttal 11/7/16. Parties shall comply with Rule 26(a)(2)
Expert Discovery Cut-off	August 19, 2016	November 28, 2016
Dispositive motions	Shall be filed by September 2, 2016; Opp. Due September 16, 2016; reply due September 23, 2016, Hearing no later than October 7, 2016	Shall be filed January 7, 2017; Opp. Due January 21, 2017; Reply Due January 28, 2017; Hearing no later than February 10, 2017.

<u>Event</u>	<u>Current Date</u>	<u>Proposed New Date</u>
Pretrial Conference Date	November 15, 2016	March 28, 2017
Jury Trial Date	November 28, 2016	April 10, 2017

Respectfully submitted,

Dated: January 22, 2016

DURIE TANGRI LLP

By: /s/ Daralyn J. Durie

DARALYN J. DURIE

Attorneys for Defendant
KILOPASS TECHNOLOGY, INC.

Dated: January 22, 2016

KILPATRICK TOWNSEND &
STOCKTON LLP

By: /s/ Roger L. Cook

ROGER L. COOK

Attorneys for Plaintiff
SIDENSE CORP.

FILER'S ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), regarding signatures, I, Roger L. Cook, attest that concurrence in the filing of this document has been obtained.

Dated: January 22, 2016

By: /s/ Roger L. Cook

ROGER L. COOK


~~[PROPOSED]~~ ORDER

Good cause appearing, it is hereby ordered as follows:

1. The parties shall engage in private mediation scheduled for a conclusion not later than April 14, 2016, although the parties are not precluded from extending that date if they agree that circumstances warrant such an extension.
2. During the mediation, there will be no party or other depositions in the United States, but in that time, the parties may (a) take non-party depositions in foreign countries and (b) conduct written discovery.
3. The Further Case Management Conference is continued for three months, until April 28, 2016.
4. All dates in the Pretrial Preparation Order (Dkt. No. 27) shall be continued to the Proposed New Dates set forth above, as will be memorialized in a Revised Pretrial Preparation Order.

IT IS SO ORDERED.

Dated: January 26, 2016

By: 
Hon. Susan Illston
United States District Court Judge

CERTIFICATE OF SERVICE

I certify that all counsel of record is being served on January 22, 2016 with a copy of this document via the Court's CM/ECF system.

/s/ Roger L. Cook
ROGER L. COOK

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